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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,001	11/25/2003	Timothy J. Landis	LAN1074.69A1	7520
8156	7590	07/27/2005	EXAMINER	
JOHN P. O'BANION O'BANION & RITCHEY LLP 400 CAPITOL MALL SUITE 1550 SACRAMENTO, CA 95814			SONG, HOON K	
			ART UNIT	PAPER NUMBER
			2882	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/724,001

Applicant(s)

LANDIS ET AL.

Examiner

Hoon Song

Art Unit

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-33 and 37-43 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-12 and 34-36 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/25/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claims 11 and 37-40 are objected to because of the following informalities:

In claim 11 at line, "said apparatus" lacks proper antecedent basis.

In claims 37-40 at line 1's, it is unclear these claims are whether an apparatus or method claims. "in a holder for" should read --a method of holding--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5-11 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Eppinger et al. (US 6540399B1).

Regarding claim 1, Eppinger teaches an apparatus for retaining a radiographic sensor element, comprising:

a bite block (10);

a first jaw member (17) extending from said bite block (10);

a movable second jaw member (12) in opposition to said first jaw member (17);

and

means for providing variable positional adjustment of said second jaw member (12) in relation to said first jaw member (17) (column 3 line 40-50).

Regarding claim 2, Eppinger teaches said means for providing variable positional adjustment comprises a threaded member (52) connecting said movable second jaw member 12) to said first jaw member (17).

Regarding claim 5, Eppinger teaches means (61) for aligning an external radiographic emission source with said first jaw member (17) and said second jaw member (12).

Regarding claim 6, Eppinger teaches said means (61) for aligning external radiographic emission source comprises an elongated member extending from said bite block (10) to provide a positional reference.

Regarding claim 7, Eppinger teaches said elongated member (61) extending from said bite block (10) is configured for the retention of at least one alignment guide.

Regarding claim 8, Eppinger teaches said alignment guide comprises a ring (70) configured for slidable engagement with said elongated member (see USP 3473026 which Eppinger is referring to).

Regarding claim 9, Eppinger teaches said alignment guide (61) comprises an alignment arm (70) assembly adapted for slidable engagement with said elongated member (figure 7).

Regarding claim 10, Eppinger teaches said alignment arm assembly comprises:  
an engagement member (a portion where numeral 61 is attached to) adapted for engaging said alignment guide (61); and

Art Unit: 2882

an elongated arm (70) joined to said engagement member (a portion where numeral 61 is attached to).

Regarding claim 11, Eppinger teaches said apparatus is molded from a polymeric material (column 3 line 4).

Regarding claim 34, Eppinger teaches an apparatus for retaining a radiographic sensor element, comprising:

a bite block (10);

a first jaw member (17) extending from said bite block (10);

a second jaw member (23) slidably engaged with said bite block (10) and positioned in opposition to said first jaw member (figure 2);

a threadable member (52) engaged between said second jaw member (23) and said bite block (10) and configured for adjusting the distance between said first jaw member and said second jaw member; and

an alignment guide (61) extending from said bite block.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eppinger et al.

Art Unit: 2882

Regarding claim 4 and 36, Eppinger fails to teach a compliant material joined to at least one of said jaw members for distributing compression forces.

A compliant material such as rubber pad for jaw member is known.

It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt the jaw members of Eppinger with the known compliant material such as rubber pad since the compliant material would protect the sensitive detector.

Claims 12 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eppinger in view of Willis (US 6203195B1).

Regarding claims 12 and 35, Eppinger fails to teach protrusions extending from said bite block which are configured for securely engaging dental structure.

Willis teaches protrusions extending from said bite block.

It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt the holder of Eppinger with the protrusions as taught by Willis, since the protrusions would securely engage the dental structure.

***Allowable Subject Matter***

Claims 13-33 and 37-43 are allowed over prior art.

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 3, Eppinger fails to teach an adjustment knob attached to said threaded member for increasing the available leverage upon said threaded member as claimed in dependent claim 3.

Regarding claims 13-33, Eppinger fails to teach a threaded member configured for providing continuously variable distance between said first jaw member and said second jaw member in response to the rotation of said threaded member as claimed in independent claim 13.

Regarding claims 37-43, Eppinger fails to teach a method of eliminating the ratcheted retention of said second jaw member as claimed in independent claim 37.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoon Song whose telephone number is (571) 272-2494. The examiner can normally be reached on 8:30 AM - 5 PM, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Glick can be reached on (571) 272 - 2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HKS

7/22/05

  
DAVID V. BRUCE  
PRIMARY EXAMINER